

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**STUDIO 15 HOUSING PARTNERS, LLC)
)
VIOLATIONS OF EFFLUENT LIMITATIONS)
IN GENERAL ORDER NO. R9-2000-0090,)
NPDES NO CAG919001, *GENERAL WASTE*)
DISCHARGE REQUIREMENTS FOR)
TEMPORARY GROUNDWATER)
EXTRACTION AND SIMILIAR WASTE)
DISCHARGES TO SAN DIEGO BAY AND)
STORM DRAINS OR OTHER)
CONVEYANCE SYSTEMS TRIBUTARY)
THERETO)
)
Place ID: 655225)
WDID NO. 9 000001692)**

**COMPLAINT NO. R9-2008-0121
FOR
ADMINISTRATIVE CIVIL LIABILITY

WITH

MANDATORY MINIMUM PENALTIES**

November 26, 2008

STUDIO 15 HOUSING PARTNERS, LLC IS HEREBY GIVEN NOTICE THAT:

1. On July 27, 2007, Studio 15 Housing Partners, LLC (hereinafter Discharger) applied for enrollment under Order No. R9-2000-0090, NPDES No. CAG919001, *General Waste Discharge Requirement for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drain or Other Conveyance Systems Tributary Thereto*, for the temporary discharge of extracted and treated groundwater to San Diego Bay from the construction site located at 70 15th Street, San Diego, California. On August 23, 2007, the California Regional Water Quality Control Board, San Diego Region (Regional Board) sent an acknowledgement letter of the permit application, specified the discharge requirements for the temporary discharge, and enrolled the Discharger under Order No. R9-2000-0090.
2. The Discharger is alleged to have violated provisions of law for which the Regional Board may impose civil liability pursuant to Section 13385 of the Water Code. The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to water of the United States. The Regional Board must impose Mandatory Minimum Penalties (MMPs) for the violations alleged in this complaint.
3. Extracted and treated groundwater was discharged from the construction site, located at 70 15th Street, San Diego, California, into San Diego Bay, and was subject to numeric effluent limitations contained in Order No. R9-2000-0090.

4. Water Code section 13385 requires that a MMP of \$3,000 be imposed for each serious violation. Water Code section 13385 subdivision (h)(2) defines a "serious violation," as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more.
5. Water Code section 13385 subdivision (i) also requires that a MMP of \$3,000 be imposed for each violation (i.e., incomplete reports and any waste discharge that violates an effluent limitation contained in waste discharge requirements and applies to surface water discharges) beginning with the fourth violation in any six-month period.
6. The Regional Board has discretionary authority to impose liability for every violation of an NPDES permit (Wat. Code § 13385(a)(2)). While sections 13385(h) and (i) require certain minimum penalties, section 13385(c) gives the Regional Board authority to impose liability as high as \$10,000 per day for those violations and \$10 per gallon. Section 13385(e) provides factors to be considered by the Regional Board when determining the amount of any liability imposed under sections 13385(a) and 13385(c).

ALLEGATIONS

7. The Discharger reported effluent sampling results to the Regional Board pursuant to the Order No. R9-2000-0090's Monitoring and Reporting schedule. Between September 2007 and March 2008, the Discharger reported violations of effluent limitations for total coliform, fecal coliform, dissolved oxygen, nickel, and total suspended solids as described in Table 1, Summary of Mandatory Minimum Penalty Violations, and Table 2, Calculation of Nickel 6 Month Median.

PROPOSED CIVIL LIABILITY

8. Pursuant to Water Code sections 13385 (h) and (i), a mandatory minimum penalty of sixty-three thousand dollars (\$63,000) is recommended for the twenty-one (21) alleged violations of effluent limitations as identified in attached Table 1. Discretionary civil liability above the mandatory minimum for the violations alleged in this Complaint is not recommended.

Dated this 26th day of November 2008



MICHAEL McCANN
Assistant Executive Officer

Signed pursuant to the authority delegated by the Executive Officer to the Assistant Executive Officer

Attachment: Table 1, Summary of Mandatory Minimum Penalty Violations

CIWQS Entries

Regulatory Measure IDs: 148779 (Order No. 2000-0090)
351491 (ACL Complaint No. R9-2008-0121)

Party ID: 392085 (Studio 15 Housing Partners, LLC)

Place ID: 655225

Table 1
Summary of Mandatory Minimum Penalty Violations
Studio 15 Housing Partners, LLC
ACL Complaint No. R9-2008-0121

Violation No.	Violation ID	Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty	Notes ^{i, ii}
1	778818	9/5/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$0	1st violation in 6 month period
2	782635	9/5/2007	Fecal Coliform	instantaneous maximum	mpn/100ML	200	500	\$0	2nd violation in 6 month period
3	782633	9/12/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$0	3rd violation in 6 month period
4	782636	9/12/2007	Fecal Coliform	instantaneous maximum	mpn/100ML	200	>1600	\$3,000	4th violation in 6 month period
5	782634	9/19/2007	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$3,000	4 or more violations in a 6 month period
6	778821	9/30/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	2.99	\$3,000	4 or more violations in a 6 month period
7	778806	11/15/2007	Total Suspended Solids	instantaneous maximum	mg/L	50	153	\$3,000	Group 1 - serious violation
8	782618	11/15/2007	Total Suspended Solids	30-Day Average	mg/L	30	153	\$3,000	Group 1 - serious violation
9	778805	11/28/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	2.61	\$3,000	4 or more violations in a 6 month period
10	782620	12/20/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.77	\$3,000	4 or more violations in a 6 month period
11	782622	12/28/2007	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.01	\$3,000	4 or more violations in a 6 month period
12	778824	1/3/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.06	\$3,000	4 or more violations in a 6 month period
13	782599	1/10/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.88	\$3,000	4 or more violations in a 6 month period
14	782600	1/16/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.45	\$3,000	4 or more violations in a 6 month period
15	782603	1/29/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.65	\$3,000	4 or more violations in a 6 month period
16	782604	2/6/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.33	\$3,000	4 or more violations in a 6 month period
17	778827	2/6/2008	Total Coliform	instantaneous maximum	mpn/100ML	1000	>1600	\$3,000	4 or more violations in a 6 month period

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Violation No.	Violation ID	Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Mandatory Minimum Penalty	Notes ^{i, ii}
18	782605	2/13/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.72	\$3,000	4 or more violations in a 6 month period
19	782608	2/28/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.41	\$3,000	4 or more violations in a 6 month period
20	782610	3/6/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	3.39	\$3,000	4 or more violations in a 6 month period
21	782611	3/13/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	2.63	\$3,000	4 or more violations in a 6 month period
22	782612	3/20/2008	Dissolved Oxygen	instantaneous minimum	mg/L	>5	4.4	\$3,000	4 or more violations in a 6 month period
23	782615	3/20/2008	Total Coliform	instantaneous maximum	mpn/100ML	1000	1600	\$3,000	4 or more violations in a 6 month period
24	778851	3/20/2008	Nickel	6-month median	ug/L	8.2	8.9	\$3,000	4 or more violations in a 6 month period
TOTAL MMP								\$63,000	

- i CWC Section 13385(h) requires that an MMP of \$3,000 be imposed for each serious violation. Serious violations are based on:
1. Total suspended solids (TSS) is a Group 1 pollutant.
A serious violation occurs when the discharge exceeds Group I effluent limitations by 40 percent or more; and
 2. Nickel is a Group II pollutant.
A serious violation occurs when the discharge exceeds Group II effluent limitations by 20 percent or more
- ii In addition to MMPs for serious violations, the occurrence of four or more effluent limitation violations in any six-month period requires the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation during any six-month period (CWC 13385(i)). Coliform and dissolved oxygen are not a Group I or II pollutant.

See Table 2 for calculation of Nickel 6 month median.

Table 2
Calculation
of
Nickel 6 Month Median

Sample Date	Nickel Result ug/l
9/22/2007	0.0
11/15/2007	39.4
11/20/2008	9.1
11/28/2007	14.5
12/20/2007	11.9
12/28/2007	8.0
1/3/2008	7.5
1/10/2008	6.0
1/16/2008	5.0
1/23/2008	7.6
1/29/2008	6.8
2/6/2008	5.8
2/13/2008	10.8
2/19/2008	9.3
2/28/2008	8.7
3/6/2008	10.8
3/13/2008	10.2
3/20/2008	10.2

No.	Results placed in value order
1	0.0
2	5.0
3	5.8
4	6.0
5	6.8
6	7.5
7	7.6
8	8.0
9	8.7
10	9.1
11	9.3
12	10.2
13	10.2
14	10.8
15	10.8
16	11.9
17	14.5
18	39.4

Since there is an even number of samples, we find the middle pair of numbers (8.7 and 9.1), and then we find the value that would be half way between them.

$$(8.7 + 9.1)/2 = 8.9$$

The Nickel 6 month median is 8.9 ug/l